

EXHIBIT 75

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**MAO DECLARATION
OPPOSITION TO SUMMARY
JUDGMENT**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANIBAL RODRIGUEZ, SAL CATALDO,)
JULIAN SANTIAGO, and SUSAN LYNN)
HARVEY, individually and on)
behalf of all others similarly)
situated,)

Plaintiffs,)

vs.)

Case No.
3:20-cv-04688-RS

GOOGLE LLC,)

Defendant.)

VIDEO-RECORDED DEPOSITION OF
CHRISTOPHER R. KNITTEL, Ph.D.
Tuesday, July 11, 2023
Volume I

*** ATTORNEYS' EYES ONLY ***

Reported by:

CARLA SOARES

CSR No. 5908

Job No. 5996021

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1 Q This document, at least, concludes that 17:40:51
2 there is a causal relationship between conversion
3 tracking and loss of revenue, right?

4 A I don't know if it says that.

5 Q Well, it says the "overall approximate 17:41:06
6 revenue impact ratio to Display Ads."

7 Do you see that?

8 A Overall -- there's so many columns and
9 pages and rows.

10 The analysis under "Search Ads for overall 17:41:29
11 impact to Conversion Tracking"?

12 Q The bottom of that box reads, "overall
13 approximate revenue impact ratio to Display Ads can
14 be estimated as."

15 Do you see that? 17:41:45

16 A Yes.

17 Q So will you agree with me that this
18 document concludes that Google would lose revenue if
19 it stopped tracking conversions?

20 A I don't -- maybe I'm just -- I would have 17:41:56
21 thought if we were saying that, then at the top it
22 would say, "Overall impact from conversion
23 tracking."

24 Q Well, isn't this whole row related to
25 conversion tracking? 17:42:19

1 A It's related to it, but it's not 17:42:22
2 necessarily -- there's not necessarily a causal
3 relationship.

4 Q How do you understand the phrase "revenue
5 impact ratio" if not causal? 17:42:33

6 A Again, but causal to -- from what? It
7 doesn't say "from conversion tracking."

8 Q So you think that the label on the left
9 does not supply that answer?

10	A Correct.	17:42:59
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11	Q	Why?
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12 MR. SANTACANA: Asked and answered.

13 THE WITNESS: Because if I were writing
14 such a document, and I was claiming that this thing
15 is going to reduce revenues from something else, I 17:43:14
16 would have said "from," not "to."

17 BY MR. SILA:

18 Q But the ratio is to display ads revenue,
19 right?

20 A To display ad revenues. But what I don't 17:43:35

21 know is, through what channel?

22 Q So you're not really sure why the label

23 "Conversion Tracking" is there on the left?

24	A	Correct.
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25 MR. SILA: Okay. Let's go off the record. 17:44:17

1 THE VIDEO OPERATOR: Off the record, the 17:44:22
2 time is 5:44.

3 (Recess, 5:44 p.m. - 5:52 p.m.)

4 THE VIDEO OPERATOR: This marks the
5 beginning of Media No. 7. We're back on the record. 17:52:55
6 The time is 5:52.

7 BY MR. SILA:

8 Q Dr. Knittel, in connection with
9 Mr. Lasinski's actual damages calculation, is it
10 your opinion that Mr. Lasinski failed to consider 17:53:14
11 other data-sharing transactions?

12 A Can you elaborate on that?

13 Q I'm referring to Section 10B of your
14 report.

15 A Yes, that's certainly the case. 17:53:54

16 Q Mr. Lasinski considers the Ipsos
17 Screenwise Panel, correct?

18 A Yes, he uses that. Yes.

19 Q That is a data-sharing transaction,
20 correct? 17:54:13

21 A Yes.

22 Q Mr. Lasinski also considers AT&T's
23 Gigapower campaign and Internet Preferences program,
24 correct?

25 A Yes. 17:54:27

1 Q That's also a data-sharing transaction? 17:54:28

2 A That's correct.

3 Q And Mr. Lasinski considers the Nielsen

4 Computer and Mobile Panel, correct?

5 A That's correct. 17:54:42

6 Q That's also a data-sharing transaction?

7 A Yeah. I feel like you're misinterpreting

8 that sentence, but that's correct.

9 Q Is your criticism that in connection with

10 the actual damages methodology, Mr. Lasinski should 17:54:56

11 have considered even more data-sharing transactions?

12 A I think we're -- yeah. In that section,

13 I'm focusing on something different than what you're

14 focusing on.

15 Q Okay. In this section, are you 17:55:30

16 criticizing Mr. Lasinski for failing to consider

17 data-sharing transactions that you consider to be

18 more comparable to the at-issue conduct than the

19 data-sharing transactions that Mr. Lasinski

20 mentioned in his report? 17:55:48

21 A So I -- that section focuses on what

22 alternative but-for world would exist had the

23 alleged activity not taken place, and that

24 alternative but-for world would lead to potentially

25 other data-sharing scenarios. 17:56:15

1 Q What other data-sharing scenarios might 17:56:24
2 occur in that but-for world?

3 A Well, for one, that the third-party
4 conversion-tracking companies would have done it
5 themselves. 17:56:47

6 Q Do any of those third-party
7 conversion-tracking companies offer e-mail services
8 to users?

9 A Not that I know of.

10 Q Do any of those other 17:57:05
11 conversion-measurement companies offer search
12 engines to users?

13 A Not that I know of.

14 Q Do any of those other conversion-tracking
15 companies offer navigation services to users? 17:57:23

16 A Not that I know of.

17 Q Do any of those other
18 conversion-measurement companies offer users a
19 platform where they can watch videos?

20 A Not that I know of. 17:57:41

21 Q Do any of those other
22 conversion-measurement companies offer smart home
23 devices?

24 A Not that I know of.

25 Q Do any of these other analytics companies 17:57:54

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1      measure conversions on the web as distinct from      17:57:56
2      apps?
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3 A That I couldn't say for sure. It wouldn't
4 surprise me if they did.

5 Q Do you know whether any of these other 17:58:08
6 conversion-measurement companies collect data from
7 as many apps as Google does?

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8 |           A   Did you say "block data" or "collect
9 | data"?
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10	Q I'll rephrase.	17:58:22
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11 Do you know whether any of the other
12 conversion-measurement companies collect data from
13 as many apps as Google does?

14 A I don't know the answer to that, no.

15 Q Is it fair to say that Google has a more 17:58:43
16 complete picture of the user and their activities
17 than these other conversion-measurement companies
18 that you reference?

19 A A more complete picture to do what? To do
20 conversion tracking?

21 Q I'm just asking about the data that is on
22 Google's servers.

23 A To me, if I was answering, do they have a
24 more complete picture, I would kind of need, do they
25 have a more complete picture to do something.

1 plaintiffs in this case allege that there's 18:15:19
2 emotional distress from having SWAA on.

3 Q The plaintiffs in this case have SWAA off,
4 correct?

5 A Right. So they turned it off because 18:15:34
6 otherwise they would get emotional distress from
7 turning it on.

8 Q I see.
9 So the idea that Google collects data with
10 SWAA on is costly because it gives rise to distress? 18:15:49

11 A That's one scenario, sure. Yeah.

12 Q Can you name any others?

13 A The cost from turning -- we're going back
14 to the cost of turning it on? Yeah, I -- again,
15 it's going to vary by consumer. 18:16:20

16 But I could imagine a consumer who thinks
17 if it's on, you know, there's more likely to be a
18 data breach in the data. There's going to be some
19 expected cost to potential data breaches.

20 Q Expected costs from, like, a government 18:16:44
21 subpoena?

22 A I didn't go down that path, but yeah. Now
23 that you mention it, yeah.

24 Q What are the costs of having SWAA off from
25 a consumer's perspective? 18:17:03

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1 A Well, one cost is you don't get 18:17:05
2 personalized ads, and I think consumers benefit from
3 personalized ads, or they may benefit. Some
4 consumers definitely benefit.

5	Q Any others?	18:17:16
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6 A Not -- as I'm sitting here today, not that
7 come to mind. I'm sure -- I wouldn't be surprised
8 if there's others.

9 Q From the consumer's perspective, what are
10 the benefits that -- tongue-tied. 18:17:33

11 From the consumer's perspective, what are
12 the benefits of having sWAA off?

13 A Well, that was the cost of -- I think
14 those are the costs of having swAA on. The negative
15 of those costs that we talked about. 18:17:48

16 Q The benefits of having sWAA off include
17 the knowledge and comfort that Google does not
18 collect their data, right?

19 A Potentially. I think that's -- that seems
20 to be the claim of the plaintiffs, at least. 18:18:03

21 Q In paragraph 149, you go on to state that,
22 quote -- hold on a moment.

23 Okay. In paragraph 149, you go on to
24 state that, quote, "Treating such consumers as
25 harmed during these months (as Mr. Lasinski does) 18:18:38

1 ignores their own observed decisions and 18:18:42
2 preferences."

3 Do you see that?

4 A Yes.

5 Q How about a month in which a given user 18:18:52
6 has optimally chosen a sWAA-off status? In this
7 scenario, would you agree that that user's observed
8 decisions and preferences include the preference
9 that Google not collect, save, and use app activity
10 during that month? 18:19:10

11 A Yes. I think we're going down a path
12 where consumers are optimally deciding. So as they
13 optimally turn it off, in expectation at least, they
14 get more utility -- we call it "utility" or
15 "value" -- from having it off than on. 18:19:32

16 Q Would you then agree that if Google
17 collects, saves, and uses app activity from that
18 user in a month in which that user has sWAA off,
19 then there is some measure of harm?

20 A In expected value, directionally, that's 18:20:08
21 correct. We still have to measure it, of course.

22 Q Sure.

23 Do you contend that that harm is more like
24 a single instance of harm as compared to a
25 consistent month-after-month pattern of harm? 18:20:23

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1 A I don't have -- I didn't form an opinion 18:20:34

2 on that, per se.

3 THE REPORTER: Counsel, apologies for the

4 interruption. I need to take a quick five-minute

5 break, if that's okay. 18:20:47

6 MR. SILA: Sure. We'll go off the record.

7 THE REPORTER: Thank you.

8 THE VIDEO OPERATOR: Off the record. The

9 time is 6:20.

10 (Recess, 6:20 p.m. - 6:23 p.m.) 18:22:44

11 THE VIDEO OPERATOR: We're back on the

12 record. The time is 6:23.

13 BY MR. SILA:

14 Q All right. Dr. Knittel, you opine that

15 the data collected via Screenwise is not comparable 18:23:38

16 to the data that Google collects via Google

17 Analytics for Firebase and the Google Mobile Ads

18 SDK, correct?

19 A Yes.

20 Q And because you believe the Screenwise 18:23:52

21 data is not comparable, you believe the Screenwise

22 payments are also not comparable, correct?

23 A As does Mr. Lasinski.

24 Q Okay. Let's look at paragraph 137 of your

25 report. Let me know when you're there. 18:24:27

1 A I'm there. 18:24:35

2 Q In this paragraph, you list types of data
3 that Google collects in the Screenwise program which
4 you say are not at issue in this case, right?

5 A In part, yes. 18:24:45

6 Q Okay. Is it your understanding that
7 Google does not use Google Analytics for Firebase or
8 the Google Mobile Ads SDK to collect browsing
9 activity data from sWAA-off users?

10 A It's my understanding that they don't 18:25:13
11 collect all browsing activity from sWAA-off users.

12 Q What browsing activity does Google not
13 collect from sWAA-off users?

14 A Well, for example, browsing activity that
15 takes place on their computer. 18:25:35

16 Q Okay. So just mobile activity?

17 A Yeah. I think it would take -- you know,
18 if we wanted to do a deep dive into each of these
19 listed, we can do that. But it's certainly the case
20 that Screenwise is collecting more data than what -- 18:25:54
21 what's at stake in this case.

22 Q Are you aware that the Screenwise payments
23 for a mobile device are separate from the Screenwise
24 payments for a desktop device?

25 A I remember looking at the contracts. That 18:26:17

1 Google account (or accounts). " 18:51:47

2 Do you see that?

3 A Yes.

4 Q Do you understand this to require

5 Screenwise participants to log in to their Google 18:51:55

6 account in order to receive payment?

7 A It says "asked." I would take it at face

8 value, "asked."

9 I don't know if we can go through the

10 document to -- the document may somewhere say, 18:52:13

11 "Whatever you're asked to do, you have to do to get

12 the money." So that's the only pause I would have.

13 Q Fair enough.

14 In your report, that same paragraph, you

15 wrote that Screenwise participants are asked to, 18:52:31

16 quote, "confirm the information associated with

17 their profile is up to date and accurate."

18 You can look back at the report if you

19 want, or I'll just represent to you that that's the

20 quote. 18:52:47

21 Is there anything here that says

22 participants will be asked to do anything to confirm

23 that information, other than log in to their Google

24 account?

25 A Actually, could you point it to me [sic] 18:53:01

1 just so it's in my head? 18:53:03

2 Q Sure. In your report?

3 A Yes, please.

4 Q It's paragraph 139, and it's the sentence

5 that starts on page 83 and continues to page 84. 18:53:14

6 A Okay. Okay. Now, one more time, your

7 question?

8 Q Is there anything in the Screenwise terms

9 and conditions that you're aware of that says

10 participants will be asked to confirm that the 18:53:37

11 information associated with their profile is up to

12 date and accurate by doing anything other than just

13 logging into their Google account?

14 A Not as I'm sitting here today. You know,

15 I'd want to, I guess, read through the complete 18:53:59

16 terms and conditions.

17 Q Okay.

18 A Nothing off the top of my head.

19 Q Back to your report, paragraph 139, you

20 write that Screenwise participants, quote, "are not 18:54:12

21 allowed to use ad-blockers or any kind of 'do not

22 track' features."

23 Do you see that?

24 Are you aware of any tool that blocks ads

25 on apps? 18:54:28

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1 A I've never searched for such a thing, so I 18:54:34
2 don't -- I don't know.

3 Q We can put the terms and conditions away.

4 In the Screenwise program, Google
5 compensates participants based on the number of 18:54:54
6 devices they connect, right?

7 A That is my understanding, yes.

8 Q In the Nielsen Computer and Mobile Panel,
9 Nielsen compensates participants on a per-device
10 basis, correct? 18:55:13

11 A That's less committed to my memory, but if
12 you're offering that, I have no reason to deny that.

13 Q Do you know whether SavvyConnect
14 compensates users on a per-device basis?

15 A I do not. 18:55:34

16 Q If these three separate companies
17 compensate users on a per-device basis, wouldn't
18 there be an economic rationale for making payments
19 on a per-device basis?

20 A In their setting, yes, that they're 18:56:08
21 choosing to do that for the product that they're
22 offering. So the fact that they're choosing that in
23 that setting, I think that's evidence that in that
24 setting, there's an economic rationale for doing so.

25 Q But your opinion is that there would be no 18:56:22

1 economic rationale for doing the same thing in this 18:56:23
2 context?

3 A I don't -- I don't recall Mr. Lasinski
4 providing an economic rationale for doing that in
5 this context. 18:56:44

6 Q Okay. That's slightly different than my
7 question.

8 In your opinion, would there be an
9 economic rationale for making payments on a
10 per-device basis? 18:56:57

11 A There may be. I haven't come to an
12 opinion on that either way.

13 Q Is the fact that in the market payments
14 are made on a per-device basis relevant to the
15 determination of whether a per-device payment would 18:57:15
16 be appropriate in this case?

17 A Not necessarily.

18 Q Why wouldn't the fact that you see
19 payments structured this way in the market be
20 relevant for this case? 18:57:37

21 A There's two reasons. One is, we're
22 talking about a market for something that, in my
23 opinion, is very different, so that's one key
24 difference.

25 And the second is, I go back to my point 18:57:55

1 that Mr. Lasinski hasn't provided -- hasn't even 18:57:58
2 provided an explanation of what the \$3 represents.

3 Is it emotional harm? Is it
4 inconvenience? You know, he's never vocalized what
5 we're doing or where that is coming from. And 18:58:16
6 unless you do that, it's hard to say whether a
7 per-device basis is appropriate or not appropriate.

8 Q If we know from market transactions --
9 let's just stipulate that we know from market
10 transactions how much Google would have to pay in 18:58:38
11 order to convince someone to give up the data at
12 issue in this case. Wouldn't that be relevant to
13 the determination of damages in this case?

14 A So I'll go back to the two explanations I
15 just gave, one of which is that these are two 18:59:13
16 different products and two different actions, so to
17 speak, right?

18 For example, I can't remember if you have
19 to install Screenwise on each app. Well, now you've
20 created another difference because there's work to 18:59:35
21 be done per app in Screenwise, but not in SWAA-off.
22 So that's one potential key difference in why it
23 might be relevant for Screenwise but not SWAA-off.

24 And the second is, unless Mr. Lasinski
25 takes a stand on what his \$3 number is representing, 18:59:54

1 we can't really answer that question. 18:59:58

2 Q Why is it important to put a label on the
3 emotion that is implicated by a market transaction
4 if you know that that market transaction mirrors the
5 conduct at issue in this case? 19:00:15

6 A Well, again, I'll restate that I don't
7 think it mirrors the conduct in this case.

8 Q I take your point.

9 A So setting aside the fact that the conduct
10 doesn't mirror it, as an example, suppose the \$3 19:00:29
11 that Mr. Lasinski purports is relevant represents
12 the emotional harm from knowing Google has my data.

13 In that case, no matter how many devices I
14 have, Google has my data, right? The harm comes
15 from just knowing Google has data about me. Not 19:00:57
16 necessarily how much data, but just it has data. In
17 that case, you wouldn't want to do it per device.

18 Q But isn't per device what's reflected in
19 the market transactions?

20 A That's why it's so important to know what 19:01:19
21 Mr. Lasinski's \$3 is representing.

22 In the market transaction, we know what
23 it's representing. It's representing you're going
24 to be part of this panel. You're going to download
25 this app on all of your devices. You're going to 19:01:37